

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - S/S of Trumps Mill Road, SE of Hensel Avenue (5701 Trumps Mill Road) 14th Election District 5th Councilmanic District Michael Perholtz, et ux Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-61-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing and Zoning Variance filed by the legal owners of the subject property, Michael and Patricia Perholtz. The Petitioners request approval of an amendment to the previously approved site plan in Case No. 90-279-A to permit the conversion of an existing garage to provide a second floor apartment therein and variance relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 11 feet in lieu of the required 30 feet for an existing garage, as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitions was Patricia Perholtz. There were no Protestants.

Testimony indicated that the subject property, known as 5701 Trumps Mill Road, consists of 0.61 acres zoned D.R. 3.5 and is improved with a single family dwelling and detached garage. Petitioners filed the instant Petitions to permit the conversion of the second floor of the existing garage to provide independent living quarters for Mr. Perholtz' sister. Testimony indicated that this property was the subject of prior Case No. 90-279-A in which a height variance for the subject garage was granted subject to restrictions, including the limited use of the garage for storage purposes only. Mrs. Perholtz testified that she has discussed

this matter with her neighbors who have no objections to their plans. As a result of the Petitioners adding living quarters to the subject garage, a variance from Section 1802.3.C.1 to permit a setback of 11 feet in lieu of 30 feet is necessary in order to legalize the location of the garage.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing and variance are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particu-

- 2 -

lar parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing and variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 18th day of October, 1992 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 90-279-A to permit the conversion of an existing garage to provide a second floor apartment, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 11 feet in lieu of the required 30 feet for an existing garage, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The proposed second floor apartment is limited to use by the Petitioners' family members only. In no event shall the apartment be leased out to the general public. Further, in the event the property is no longer owned by the Petitioners, or their family, any kitchen and/or bathroom facilities existing in the

- 3 -

second floor apartment shall be removed and the apartment converted back to storage space.

3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.

4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TWK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

October 23, 1992

(410) 887-4386

Mr. & Mrs. Michael Perholtz
5701 Trumps Mill Road
Baltimore, Maryland 21206

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
S/S Trumps Mill Road, SE of Hensel Avenue
(5701 Trumps Mill Road)
14th Election District - 5th Councilmanic District
Michael Perholtz, et ux - Petitioners
Case No. 93-61-SPHA

Dear Mr. & Mrs. Perholtz:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact Mr. Charlotte Radcliffe at 887-3351.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TWK:bjs

cc: People's Counsel

File

Petition for Special Hearing

93-61-SPHA
to the Zoning Commissioner of Baltimore County
for the property located at 5701 Trumps Mill Rd
which is presently zoned PR3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

TO AMEND VARIANCE 90-279-A (CONDITION 2) TO ALLOW CONVERSION OF GARAGE TO A DWELLING UNIT.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Leasee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Telephone

City

State

Zipcode

With do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

(Type or Print Name)

Signature

Address

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

Zipcode

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Petition for Variance

93-61-SPHA
to the Zoning Commissioner of Baltimore County
for the property located at 5701 Trumps Mill Rd
which is presently zoned PR3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 TO ALLOW A REAR SETBACK OF 11' IN LIEU OF THE REQUIRED 30 FEET.

Garage was designed and built in a location at a time when it was not planned use for a second dwelling for a side family member (see attached letter)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Leasee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

With do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

(Type or Print Name)

Signature

Address

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

Zipcode

Telephone

City

State

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Telephone

City

State

Zipcode

Telephone

93-61-SPHA
WORK #18

There were
no descriptions
with this
file.

Sophia
8/25/92

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 14th Date of Posting: 8/21/92
Posted for: Special Hearing & Variances
Petitioner: Michael & Patricia Perholtz
Location of property: 45 Trumps Mill Rd (5701) at Conf. Hous. Bldg.
Location of Sign: Public Hearing, 2nd property to be zoned
Remarks:
Posted by: Michael Perholtz Date of return: 8/27/92
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9/10, 1992
THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/10, 1992

THE JEFFERSONIAN,
S. Zeke Orlean
Publisher

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date: 8/20/92 Account: R-001-6190
PAID FOR AND WRITTEN RECEIPT DATED 8/20/92
Number: H9300071
PUBLIC HEARING FEES QTY PRICE
030 -SPECIAL HEARING (IRL) 1 X \$50.00
TOTAL: \$50.00
LAST NAME OF OWNER: PERHOLTZ

Cashier Validation Please Make Checks Payable To: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date: 8/20/92 Account: 001-6190
Number: ED 14 CD 5
Perholtz, Michael & Patricia
5701 Trumps Mill Rd
Towson, Maryland 21204

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Date: 9/14/92 Account: R-001-6190
Number: 93-61
93-61
9440+00095NICHWC
BA 001-10809-02 92 \$64.33
Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 9/14/92

Michael & Patricia Perholtz
5701 Trumps Mill Road
Baltimore, Maryland 21206

RE:
CASE NUMBER: 93-61-SPHA
5/8 Trumps Mill Road, SEC Menom Avenue
5701 Trumps Mill Road
14th Election District - 5th Councilmanic
Petitioner(s): Michael Perholtz and Patricia A. Perholtz
HEARING: FRIDAY, OCTOBER 9, 1992 at 2:00 p.m. in Room 106, Office Building.

Dear Petitioner(s):

Please be advised that \$64.33 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Carl J. Jablon

ARNOLD JABLON
DIRECTOR

Printed on Recycled Paper

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 28, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-61-SPHA
5/8 Trumps Mill Road, SEC Menom Avenue
5701 Trumps Mill Road
14th Election District - 5th Councilmanic
Petitioner(s): Michael Perholtz and Patricia A. Perholtz
HEARING: FRIDAY, OCTOBER 9, 1992 at 2:00 p.m. in Room 106, Office Building.

Special Hearing to amend variance #90-279-1, condition #2, to allow conversion of a garage to a dwelling unit.
Variance to allow a rear setback of 11 feet in lieu of the required 30 feet.

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Michael & Patricia Perholtz

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

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111 West Chesapeake Avenue
Towson, MD 21204

September 29, 1992

(410) 887-3353

Mr. & Mrs. Michael Perholtz
5701 Trumps Mill Road
Baltimore, MD 21206

RE: Item No. 71, Case No. 93-61-SPHA
Petitioner: Michael Perholtz, et ux
Petition for Special Hearing

Dear Mr. & Mrs. Perholtz:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

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111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this
20th day of August, 1992

Arnold Jablon
DIRECTOR

Received By:

W. Carl Richards Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Michael Perholtz, et al

Petitioner's Attorney:

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DPW/Developers Engineering Division (Public Services)
Development Review Committee Response Form
Authorized signature: Arnold A. Kennedy Date: 9/16/92

File Number: Waiver Number Zoning Issue: Meeting Date

Stonegate at Patapsco (Aerial Property)
ZON DED TE (Waiting for developer to submit plans first) 6-1-92

COUNT 1
Maiden Choice Associates 54 8/31/92 Comment
DED DEPRM RP STP TE
Lyons Mill Partnership 62 NC
DED DEPRM RP STP TE
Steven Lewis and Marv Ann Kidwell 63 NC
DED DEPRM RP STP TE
ReVisions, Inc. 64 Comment
DED DEPRM RP STP TE
Donald And Margaret Proescher 65 NC
DED DEPRM RP STP TE
Francisco and Ada Figueroa 66 NC
DED DEPRM RP STP TE
Pamela H. and Randall W. Perkins 67 NC
DED DEPRM RP STP TE
Johnny M. Boyles 68 NC
DED DEPRM RP STP TE
Donald E. and Mary Bell Grempler 69 Comment
DED DEPRM RP STP TE
Gordon E. Sugar 70 NC
DED DEPRM RP STP TE
Michael and Patricia Perholtz 71 NC

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: September 8, 1992

FROM: Ervin McDaniel, Chief
Planning and Zoning
Development Review Section

SUBJECT: Petitions from Zoning Advisory Committee
August 24, 1992 and August 31, 1992

The Office of Planning and Zoning has no comments on the following petitions:

White Marsh Joint Venture, Item No. 49
Michael Perholtz, 3000 N. West 41st St.

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

EMCD/FM/rdn

ITM-49/ZAC1

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: August 31, 1992

WORK NUMBER: 18 #11

- 1) The existing access width off Trumps Mill Road is substandard.
- 2) Adequate number of on-site parking spaces need to be provided.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/WKL/lvd

RECEIVED
SEP 9 1992
ZONING OFFICE

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21204-5500

SEPTEMBER 1, 1992 (410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: MICHAEL PERHOLTZ AND PATRICIA A. PERHOLTZ

Location: #5701 TRUMPS MILL ROAD

Item No.: WORK #18 (LJG) Zoning Agenda: AUGUST 31, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Capt. Jerry P. Pender* Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/KEK

RECEIVED
SEP 8 1992
ZONING OFFICE

Department of Recreation and Parks
Development Review Committee Response

Authorized signature: *[Signature]* Date: 9/8/92

| File Number | Project Name | Waiver Number | Zoning Issue | Meeting Date |
|-------------|-----------------------------------|---------------|--------------|--------------|
| ✓ | Maiden Choice Associates | 54 | No Comments | 8/31/92 |
| ✓ | Lyons Mill Partnership | 62 | No Comments | |
| ✓ | Steven Lewis and Mary Ann Kidwell | 63 | No Comments | |
| ✓ | Revisions, Inc. | 64 | No Comments | |
| ✓ | Donald And Margaret Proeschner | 65 | No Comments | |
| ✓ | Francisco and Ada Figueroa | 66 | No Comments | |
| ✓ | Pamela H. and Randall W. Perkins | 67 | No Comments | |
| ✓ | Johnny M. Boyles | 68 | No Comments | |
| ✓ | Donald E. and Mary Bell Grempler | 69 | No Comment | |
| ✓ | Gordon E. Sugar | 70 | No Comment | |
| ✓ | Michael and Patricia Perholtz | 71 | No Comment | |
| ✓ | Dr. Edward and Ann Mishner | 72 | No Comment | |

Mr. Lawrence Schmidt, Zoning Commissioner
Office of Planning and Zoning
111 W. Chesapeake Ave.
Baltimore, Maryland 21201

Dear Mr. Schmidt: Re: Case 93-61-SPHA

Due to a previous commitment I will not be able to personally attend the hearing at 2 p.m., October 9th and therefore, I would like to submit my thoughts in writing.

I live about a half mile from said garage-dwelling, but feel that any decision on this case will definitely effect the community that I live in. I do not believe rental property in an all single family community would enhance the value of our property. In my immediate area there are two possible cases where an area over a garage could be used as rental property. Also, I can think of two other existing places which have large areas with windows over a garage in this area. So, in brief, my biggest concern is that a favorable ruling in case 93-61 SPHA will set a precedent that would be detrimental, not only to that immediate area, but also to my community.

As for setback variances, my only opinion on that is, why wasn't that settled before this garage was ever built. I realize it is impractical to move the structure in this case, but we should give builders a message that you can't build it illegally, then we'll give you a variance to make it legal.

I would appreciate it if you would send me a copy of the outcome of this hearing.

Very truly yours,

J. Edward France, Jr.
J. Edward France, Jr.
3 Trumps Court
Baltimore, Maryland 21206

RECEIVED
SEP 28 1992
ZONING OFFICE

To Whom It May Concern 93-61-SPHA

On June 17, 1992, in San Diego, California my husband's sister was committed to Mesa Vista Hospital because she was found wandering, frightened, and disoriented and and 911 was called. My husband was then called and he went to assist her. After a month in the hospital (he managed only covered 30 days) she was released to his care. and he was instructed that she should not drive any more and that someone should be with her all the time. We feel deeply that this is our family responsibility.

Maintaining two homes - my sister-in-laws in California and over here in Baltimore would be financially and physically impossible for us. We need to bring her East to care for her and keep her from harm just as soon as possible. And this is why we are petitioning for this variance.

We have a 30'x30' garage that has a second floor and is presently used for storage (basically furnishings from my father and two

other estates) - We could sell some of the items stored and consolidate the rest in order to make a small apartment for her above that garage. But to do that we need your permission. My sister-in-law has been independent all her life (she is 61 years old) and we're afraid she would be very unhappy to have to leave her home and take up residence in our living room with a hide-a-bed to sleep on. Unfortunately that is the only other option we have to offer since both our children have returned home to live, one with a child.

I should also explain that this situation may be for an extended period of time because the indication are that Alzheimer's illness is involved. I have shared our problem with my neighbors and they have been very supportive and see no problem with her living over the garage.

If you need any medical records or information from the doctors in California I'm sure my husband can get that for you.

Sincerely
Patricia A. Perholtz

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 6701 TRUMPS MILL RD. (see pages 2 & 3 of the CHECKLIST for additional required information)

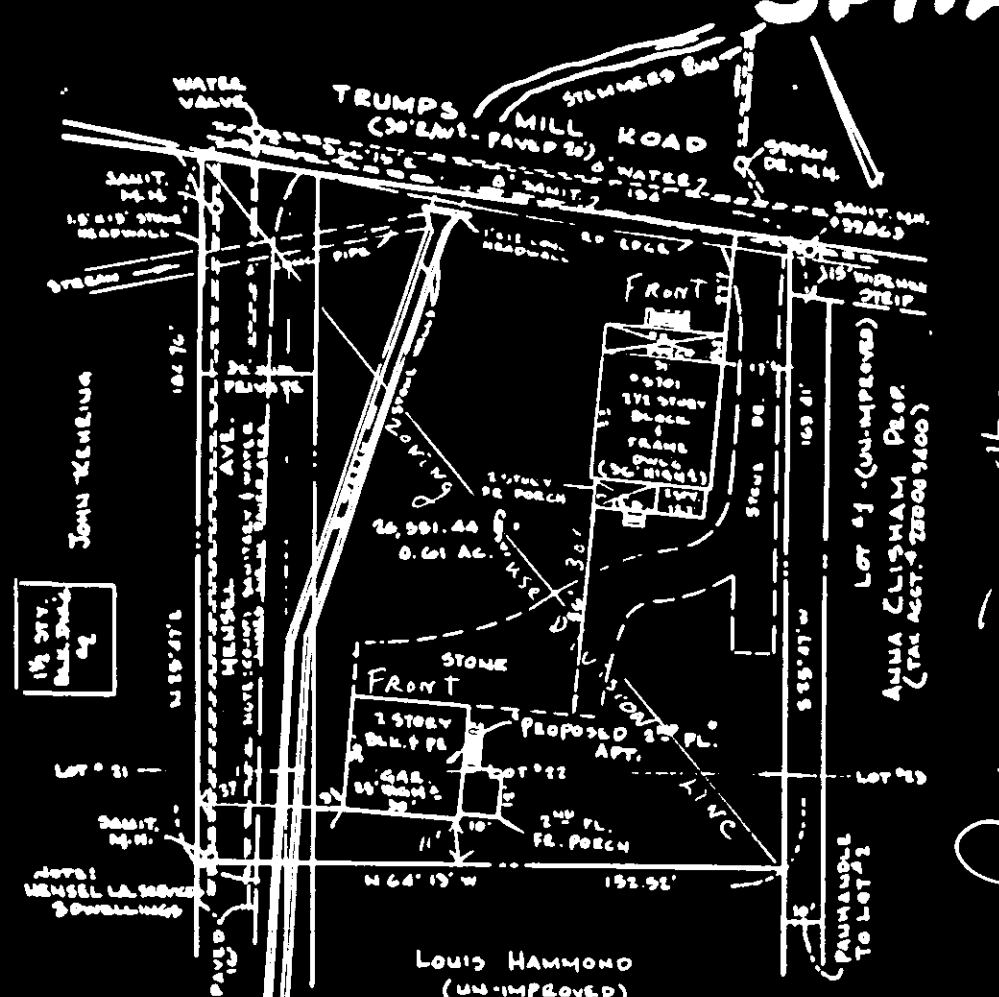
Subdivision name: KENWOOD PARK

plat book: 1, July 27, 1978, plat

OWNER: MICHAEL & PATRICIA A. PERHOLTZ

93-61 SPHA

Pet Ex #1



LOCATION INFORMATION

Geographical District: 5TH

Section District: 14TH

1"-200' scale map: NE 5F

Zoning: DR. 3.5

Lot area: 26,651.44 square feet

SEWER: ☒ ☐ ☐

WATER: ☒ ☐ ☐

Chesapeake Bay Critical Area: ☐ ☐ ☐

Prior Zoning Hearing: YES

CASE NO. 90-279-A

Date: 7/28/92

prepared by: GD SAIN Scale of Drawing: 1" = 50'

Zoning Office USE ONLY

Reviewed by: LG ITEM # 048601

